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Attorneys for PLAINTIFFS

**IN AND FOR THE UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA**

SAM KHOLI ENTERPRISES, INC., a
 California corporation;
 PAYROLLING.COM CORP., a California
 Corporation,

Plaintiff,

v.

COMSYS SERVICES, LLC, a Delaware
 corporation; and INNOVATIVE
 LOGISTICS SUPPORT SERVICES
 CORP., a Louisiana corporation; and DOES
 1-10,

Defendants.

Case No. **'11CV0970 W NLS**

**COMPLAINT FOR RELIEF AND
 DEMAND FOR JURY TRIAL AS
 FOLLOWS:**

- 1) BREACH OF CONTRACT;
- 2) BREACH OF THE IMPLIED
COVENANT OF GOOD
FAITH AND FAIR
DEALING;
- 3) ACCOUNT STATED; AND
- 4) QUANTUM MERUIT

Plaintiffs SAM KHOLI ENTERPRISES, INC., a California corporation doing
 business as PAYROLLING.COM (“SKE”) and PAYROLLING.COM CORP.
 (“PAYROLLING”) by their undersigned attorney, for their claims against defendants,
 COMSYS SERVICE, LLC, a Delaware corporation (“COMSYS”); INNOVATIVE
 LOGISTICS SUPPORT SERVICES CORP., a Louisiana corporation (“ILSS”); and
 DOES 1 through 10 (collectively “DEFENDANTS”), allege as follows:

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JURISDICTION AND VENUE

1
2 1. This Court has original jurisdiction over the subject matter of this action
3 under 28 United States Code section 1332.

4 2. With respect to the Court's jurisdiction under 28 United States Code section
5 1332, plaintiff is domiciled in the State of California, where it has its principal place of
6 business. Defendants are corporations organized and existing under the laws of the State
7 of Delaware and the State of Louisiana and are domiciliaries of the states of Texas and
8 Louisiana. The amount in controversy, without interest and costs, exceeds \$75,000.00,
9 as discussed below.

10 3. Venue is proper in this judicial district pursuant to 28 United States Code
11 section 1391(c).

PARTIES

12
13 4. SKE is a corporation incorporated, organized and existing under the laws
14 of the State of California, which has as its principal place of business the County of San
15 Diego, California. SKE has filed a fictitious business filing with the County of San Diego
16 designating that it is doing business as Payrolling.com. SKE is in the business of offering
17 services in the area of payroll, human resources, outsourcing, best practices, benefits,
18 recruiting, and work force planning.

19 5. PAYROLLING is a corporation incorporated, organized and existing under
20 the laws of the State of California, which has as its principal place of business the
21 County of San Diego, California. PAYROLLING is in the business of offering services
22 in the area of payroll, human resources, outsourcing, best practices, benefits, recruiting,
23 and work force planning.

24 6. Defendant COMSYS is a corporation incorporated, organized, and existing
25 under the laws of the State of Delaware. It has as one of its principal places of business
26 in Houston, Texas. COMSYS operates as an information technology staffing, services,
27 and solutions provider.

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1 7. Defendant ILSS is a corporation incorporated, organized, and existing under
2 the laws of the State of Louisiana. It has as its principal place of business New Orleans,
3 Louisiana. ILSS is a third-party resource company that assists individuals, corporations,
4 and the government in lowering their break-even point and eliminating a large portion
5 of overhead.

6 8. The true names and capacities, whether individual, corporate, associate,
7 representative or other, of DOES 1 through 10, inclusive, are unknown to SKE, who
8 therefore sues them by such fictitious names. SKE will seek leave to amend this
9 complaint to show the true names and capacities of said defendants when they are
10 ascertained. SKE is informed and believes, and thereupon alleges, that each of the
11 defendants named as a DOE, along with the named DEFENDANTS, is responsible in
12 some manner for the occurrences herein alleged, and that SKE's injuries herein alleged
13 were legally or proximately caused by said DEFENDANTS. Wherever it is alleged that
14 any act or omission was also done or committed by any specifically named
15 DEFENDANT, or by DEFENDANTS generally, SKE intends thereby to allege, and does
16 allege, that the same act or omission was also done and committed by each and every
17 defendant named as a DOE, and each named DEFENDANT, both separately and in
18 concert or conspiracy with the named DEFENDANTS.

19 9. PLAINTIFFS are informed and believe and thereon allege that at all
20 material times herein alleged DEFENDANTS, and each of them whether known or
21 unknown, were the agents, principals, employers, servants, employees and co-
22 conspirators of the other DEFENDANTS, and each of them, whether named or unnamed,
23 and at all relevant times herein, was acting within the scope of their authority as such
24 agents, principals, employees, employers, and co-conspirators with permission and
25 consent of the remaining named and unnamed DEFENDANTS.

26 10. Whenever in this Complaint an act or omission of a corporation, limited
27 liability company, or other such business entity is alleged, the said allegation shall be
28 deemed to mean and include an allegation that the corporation, limited liability company,

1 or other such business entity acted or omitted to act through its authorized officers,
2 directors, shareholders, members, managers, agents, servants, authorized representatives
3 and/or employees, acting within the course and scope of their duties, that the acts or
4 omissions were authorized and ratified by the business entities' shareholders, members,
5 officers, directors and/or managers.

6 **NATURE OF ACTION**

7 11. SKE brings this action to recover damages it has suffered as a result of
8 DEFENDANTS', and each of them, breaches of contract and failure to pay for services
9 provided by SKE and/or PAYROLLING during the period between January 1, 2008 and
10 June 30, 2010.

11 **DEFENDANTS' WRONGFUL COURSE OF CONDUCT**

12 12. SKE had an integrated relationship with the DEFENDANTS in this case.
13 To this end, BMC Software, Inc. ("BMC") was SKE's client. However, BMC did not pay
14 SKE directly, Instead, SKE would issue an invoice to BMC. BMC was then obligated
15 to pay COMSYS within 15 days of receipt of SKE's invoice. COMSYS would then pay
16 ILSS within seven days of payment from BMC. ILSS would then provide SKE with
17 immediate access to its funds for payment of the BMC invoice.

18 **The COMSYS Agreement**

19 13. On April 4, 2005, SKE entered into a Supplier Participation Agreement for
20 BMC Software, Inc. VMS Program with COMSYS ("COMSYS Agreement"). A true and
21 correct copy of the COMSYS Agreement is attached hereto as Exhibit "A" and its terms
22 are incorporated herein by reference as though fully set forth.

23 14. Pursuant to Paragraph 1 of the COMSYS Agreement, COMSYS was the
24 managed service provider for BMC. Pursuant to Paragraph 5 of the COMSYS
25 Agreement, COMSYS submitted work orders to SKE. SKE then performed personnel
26 services for BMC through COMSYS as its managed service provider based upon the
27 work orders. COMSYS was then obligated to pay SKE on behalf of BMC within 15 days
28 of receipt of SKE's bi-weekly consolidated invoice.

1 15. SKE, for its part, performed all terms and conditions of the COMSYS
2 Agreement which were not excused, waived or discharged. SKE paid up to 50 BMC
3 employees at a time per pay period, basing its payments on digital records provided by
4 COMSYS for work allegedly performed by BMC employees. At one time, SKE was
5 advancing approximately \$100,000.00 a week to BMC employees pursuant to the
6 COMSYS Agreement.

7 16. Beginning on or about January 1, 2008 and continuing until approximately
8 June 30, 2010, COMSYS breached the COMSYS Agreement in multiple ways to SKE's
9 detriment in an amount in excess of \$75,000.00, the exact amount to be proven at the
10 time of trial, including but not limited to: (1) COMSYS failed to pay SKE what it owed
11 SKE as BMC's managed service provider for BMC's payroll to BMC's employees
12 funded by SKE; and (2) COMSYS misrepresented to SKE that some of BMC's
13 employees were qualified as 1099 when they were not.

14 17. When in approximately May of 2010 SKE noticed large discrepancies
15 between what COMSYS was paying to SKE and what appeared to be owed, SKE
16 immediately contacted COMSYS in an attempt to resolve the issue. Unfortunately, in
17 response COMSYS stonewalled SKE and refused to discuss in good faith the dispute,
18 blaming the Fieldglass software BMC used to record its employees' time instead.

19 **The ILSS Agreement With BMC**

20 18. On or about August 25, 2008, SKE's relationship with BMC and COMSYS
21 was altered by the Addendum to Master Services Agreement entered into between BMC
22 and ILSS. A true and correct copy of ILSS's Agreement with BMC is attached hereto as
23 Exhibit "B" and its terms are incorporated herein by reference as though fully set forth.

24 19. Just as with SKE, ILSS's Agreement with BMC states as follows:

25 "BMC has chosen to use a third party to administer the process of
26 obtaining the services of temporary technical or other personnel
27 ("Personnel") to provide services to BMC through a managed service
28 provider program. .. The third party administrator is COMSYS
Information Technology Services, Inc. ("COMSYS").

Under the MSP Program, BMC will submit on-line requisitions for services to be performed by temporary technical or other personnel ("Job Postings") requesting candidate submissions from all or specific contractor(s). The Job Postings will be distributed to contractors electronically, utilizing a web-based application (the "Application") hosted and maintained by its licensor, Fieldglass, as further described below.

Upon receipt of candidate, submissions from contractors responsive to the Job Postings, COMSYS will review same on behalf of BMC. BMC will then submit electronic orders via the Application, to a specific contractor for the selected individual ("Work Order"). [See Exhibit "C", ¶¶ 1.1 - 1.3].

20. This Agreement between BMC and ILSS was then subcontracted to SKE according to the Statement of Work (SOW) specifically for the BMC Agreement awarded to ILSS and subcontracted to SKE, A true and correct copy of the SOW is attached hereto as Exhibit "C" and its terms are incorporated herein by reference as though fully set forth.

21. Pursuant to the terms of the SOW, SKE's responsibilities included: (1) Full administration and oversight of the day to day operations of the program; (2) Payrolling all BMC workers as assigned/designated in the COMSYS Software; (3) Management and liability for all invoices and invoicing issues; (4) Customer service support to BMC, COMSYS and employees; (5) Maintenance of all insurances as required and necessary by the Master Service Agreement between BMC/COMSYS and ILSS/SKE; (6) Management of funds being transferred to and from SKE and ILSS's joint banking account as set -up by ILSS; (7) Facilitating and managing staffing relationship and positions when appropriate; and (8) Maintaining adequate workforce to manage the account.

22. Pursuant to the terms of the SOW, ILSS's responsibilities included: (1) advising SKE of any items that require attention; (2) Giving SKE immediate access to funds when transferred from COMSYS into SKE and ILSS'S joint banking account; (3) Help negotiate items as requested/needed; and (4) Provide on-going non-specific support as requested by SKE.

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23. SKE for its part, performed all terms and conditions of the SOW which were not excused, waived or discharged. ILSS did not. Instead, ILSS breached the SOW in multiple ways to SKE's detriment in an amount in excess of \$75,000.00, the exact amount to be proven at the time of trial, including but not limited to ILSS failed to pay SKE what it owed SKE as BMC's managed service provider for BMC's payroll to BMC's employees funded by SKE.

SKE Agreement With ILSS

24. In addition to SKE's SOW with ILSS with respect to the BMC Agreement, on or about January 2, 2004 SKE and ILSS also entered into a Payrolling.com General Payrolling Agreement (the "ILSS Agreement"). A true and correct copy of the ILSS Agreement is attached hereto as Exhibit "D" and its terms are incorporated herein by reference as though fully set forth.

25. SKE, for its part, performed all terms and conditions of the ILSS Agreement which were not excused, waived or discharged. ILSS did not. Instead, beginning in or about May of 2007, ILSS breached the ILSS Agreement by failing to inform SKE that various of its employees traveled. As ILSS was aware, any employee that traveled was subject to a 3% markup. Despite this, ILSS failed to inform SKE of which employees were subject to the 3% markup.

26. Although SKE has made repeated requests and demands for information related to the employees to which a 3% markup applied, ILSS refused and continues to refuse to provide SKE with the necessary information as required pursuant to the terms of the ILSS Agreement. As a result, there is an amount due and owing from ILSS to SKE for the 3% markup for all employees that traveled, the exact amount to be proven at the time of trial.

27. Moreover, during the course of SKE's relationship with ILSS, on at least two separate occasions, ILSS claimed SKE and PAYROLLING overcharged it in the amount of \$58,000.00 and \$232,000.0, respectively. Without any proof or documentation, SKE and PAYROLLING refunded these funds to ILSS. SKE and

1 PAYROLLING have now determined that the refunds issued to ILSS were not
2 warranted. Instead, ILSS is obligated to return the refunded funds to SKE and
3 PAYROLLING. Despite demand for return of the refunded funds, ILSS has refused and
4 continues to refuse to return the refunded funds to SKE and PAYROLLING. As a result,
5 SKE and PAYROLLING have been damaged in an amount in excess of \$290,000.00, the
6 exact amount to be proven at the time of trial.

7 **FIRST CLAIM**

8 **(BREACH OF CONTRACT AGAINST ALL DEFENDANTS)**

9 28. PLAINTIFFS reallege and incorporate by reference as though fully set forth
10 herein paragraphs 1 through 27 as set forth above.

11 **The COMSYS Agreement**

12 29. On or about April 4, 2005, SKE and COMSYS entered into the COMSYS
13 Agreement as set forth above.

14 30. SKE duly performed those terms of the COMSYS Agreement which were
15 not excused or discharged. Beginning in or about January 1, 2008, however, COMSYS
16 breached the COMSYS Agreement by failing to pay SKE for services rendered to BMC
17 and thereafter failing to deal in good faith with SKE as required by the terms of the
18 COMSYS Agreement resulting in damages in excess of \$75,000.00, the exact amount
19 to be proven at the time of trial. COMSYS also mis-classified BMC employees as
20 independent contractors in order to evade payroll taxes, thus causing State authorities to
21 audit SKE for misclassifying these employees as independent contractors. The potential
22 liability to SKE arising from this audit is, as of the date below written, unknown, but it
23 could be in excess of \$4,000,000.00.

24 31. As a direct and proximate result of COMSYS's material breaches of the
25 COMSYS Agreement, SKE has suffered damages in an amount in excess of \$75,000.00
26 which will be proven at trial, plus prejudgment interest, finance charges, attorneys' fees,
27 costs, and expenses.

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1 **ILSS Agreement with BMC**

2 32. On or about August 25, 2008, ILSS and BMC entered into an agreement as
3 set forth above which included a SOW specifically between SKE and ILSS.

4 33. SKE duly performed those terms of the SOW which were not excused or
5 discharged. Beginning in or about June of 2010, however, ILSS breached the SOW by
6 failing to pay SKE for services rendered to BMC resulting in damages in excess of
7 \$75,000.00, the exact amount to be proven at the time of trial.

8 34. As a direct and proximate result of ILSS's material breaches of the SOW,
9 SKE has suffered damages in an amount in excess of \$75,000.00 which will be proven
10 at trial, plus prejudgment interest, finance charges, attorneys' fees, costs, and expenses.

11 **The ILSS Agreement**

12 35. On or about January 2, 2004, SKE and ILSS entered into the ILSS
13 Agreement as set forth above.

14 36. SKE duly performed those terms of the ILSS Agreement which were not
15 excused or discharged. Beginning in or about March of 2007, however, ILSS breached
16 the ILSS Agreement by failing to disclose to SKE which of its employees were traveling
17 and therefore subject to a 3% markup resulting in damages to SKE in an amount
18 currently unknown but which will be proven at the time of trial.

19 37. In addition, beginning in or about June of 2009 and again in March of 2010,
20 ILSS requested refunds from SKE and PAYROLLING in the approximate amounts of
21 \$58,000.00 and \$232,000.00, respectively, which were issued. SKE and PAYROLLING
22 have learned that the refunds issued to ILSS were not justified. In breach of the ILSS
23 Agreement, however, ILSS had failed and refused and continues to fail and refuse to
24 return the refunded funds to SKE and PAYROLLING to the detriment of PLAINTIFFS
25 in an amount in excess of \$290,000.00, the exact amount to be proven at the time of trial.

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27 ///

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38. As a direct and proximate result of ILSS's material breaches of the ILSS Agreement, SKE and PAYROLLING have suffered damages in an amount in excess of \$75,000.00 which will be proven at trial, plus prejudgment interest, finance charges, attorneys' fees, costs, and expenses.

SECOND CLAIM

(BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING AGAINST ALL DEFENDANTS)

39. PLAINTIFFS reallege and incorporate by reference as though fully set forth herein paragraphs 1 through 38 as set forth above.

40. When DEFENDANTS entered into the Agreements as set forth above, DEFENDANTS, and each of them, agreed to an implied covenant of good faith and fair dealing. This covenant obligated DEFENDANTS to refrain from action which would deprive SKE of the bargained-for benefits of the Agreements.

41. DEFENDANTS, however, failed to refrain from such conduct. Among other things, COMSYS, via manipulation of the Fieldglass software, deliberately rendered incomprehensible digital records which would reveal what COMSYS truly owed to SKE. This manipulation was intended to – and did – make it extremely difficult for SKE to determine that COMSYS were cheating it out of money owed to SKE under the Agreement, thus violating DEFENDANTS' implied covenant of good faith and fair dealing. COMSYS also misclassified employees as independent contractors, in order to evade payroll taxes, thus causing State authorities to audit SKE for misclassifying these employees as independent contractors. The potential liability to SKE arising from this audit is, as of the date below written, unknown, but could be in the millions of dollars.

42. With regard to ILSS, despite repeated requests to inform SKE of the employees to which the 3% markup for travel applied, ILSS refused to comply and provide the necessary information to SKE, thus violating ILSS's implied covenant of good faith and fair dealing.

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43. As a direct and proximate result of DEFENDANTS', and each of them, misconduct as alleged herein, SKE has suffered damages in an amount in excess of \$75,000.00, which will be proven at trial, plus prejudgment interest, finance charges, attorneys' fees, costs, and expenses.

THIRD CLAIM

(ACCOUNT STATED AGAINST ALL DEFENDANTS)

44. PLAINTIFFS reallege and incorporate by reference as though fully set forth herein paragraphs 1 through 43 as set forth above.

45. Between January 1, 2008 and the present, at San Diego, California, DEFENDANTS, and each of them, became indebted to SKE on an account stated in the amount in excess of \$1,924,285.70 for SKE's services delivered to DEFENDANTS.

45. SKE has repeatedly demanded payment from DEFENDANTS and has not received it. Despite the demands, there is now owing the sum of at least \$1,924,285.70, not including interest, attorney's fees, costs, and expenses.

46. As a direct and proximate result of DEFENDANTS', and each of them, failure to pay for the services provided by SKE, SKE has suffered damages in an amount estimated to exceed \$1,924,285.70, and which to be proven at trial, plus prejudgment interest, finance charges, attorney's fees, costs, and expenses.

FOURTH CLAIM

(QUANTUM MERUIT AGAINST ALL DEFENDANTS)

47. PLAINTIFFS reallege and incorporate by reference as though fully set forth herein paragraphs 1 through 46 as set forth above.

48. Between March of 2007 and the present, at San Diego, California, DEFENDANTS, and each of them, became indebted to PLAINTIFFS for work, labor and services furnished at the special instance and request of DEFENDANTS. The reasonable value for this work, labor and services is in excess of \$2,000,000.00.

49. DEFENDANTS, and each of them, knew or had reason to know that the work, labor, and services received from PLAINTIFFS were supplied by PLAINTIFFS

1 because DEFENDANTS accepted those services and PLAINTIFFS sent monthly
2 invoices to DEFENDANTS for that work, labor and services.

3 50. Despite PLAINTIFFS repeated demands for payment, DEFENDANTS, and
4 each of them, failed and refused to pay the reasonable value of the work, labor and
5 services provided by PLAINTIFFS and there is now due and owing from
6 DEFENDANTS, and each of them, to PLAINTIFFS a sum in excess of \$2,000,000.00,
7 plus prejudgment interest at the maximum rate provided by law.

8 **PRAYER FOR RELIEF**

9 **WHEREFORE**, PLAINTIFFS pray for relief as follows:

- 10 1. For general and special damages according to proof at the time of trial;
11 2. For attorney's fees, costs, and expenses;
12 3. For prejudgment interest at the maximum legal rate; and
13 4. For such other and further relief as the Court may deem just and proper.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff hereby demands a trial by jury.

16 Dated: May 2, 2011

TEEPLE HALL, LLP

/S/ Gregory M. Garrison

By:

Gregory M. Garrison, Attorneys
for plaintiffs SAM KHOLI
ENTERPRISES, INC. and
PAYROLLING.COM CORP.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

SAM KHOLI ENTERPRISES, INC., a California corporation;
PAYROLLING.COM CORP., a California corporation

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) TEEPLE HALL, LLP
Gregory M. Garrison, Esq. SBN 165215 Tel. (858) 622-7878
9255 Towne Centre Drive, Suite 500, San Diego, CA 92121

DEFENDANTS

COMSYS SERVICES, LLC, a Delaware corporation;
INNOVATIVE LOGISTICS SUPPORT SERVICES CORP., a
Louisiana corporation; and DOES 1-10,
County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

'11CV0970 W NLS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|---------------------------------------|----------------------------|---------------------------------------------------------------|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:
Breach of Contract

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

May 4, 2011

/s/ Gregory M. Garrison

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.